

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3148
Administrative Law Judge Division
February 24, 2005

R E S O L U T I O N

RESOLUTION ALJ 176-3148. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 24, 2005, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3148 (2/24/05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-02-006 UTILITY TELEPHONE, INC. (U 5807-C), for a Certificate of Public Convenience and Necessity to provide Facilities-Based and Resold Local Exchange Services within the Local Service Territories of SureWest Telephone (U 1015-C) and Citizens Telecommunications Company of California, Inc., (U 1024-C).	Ratesetting	Ratesetting	NO
A05-02-007 PACIFIC GAS AND ELECTRIC COMPANY, for authorization pursuant to Public Utilities Code Section 851 to grant an Easement to Michael L. Browning and Deborah H. Browning for installation, operation, maintenance and use of Domestic Water Wells.	Ratesetting	Ratesetting	NO
A05-02-008 DLC CUBED CORPORATION, EAST BAY CONNECTION, INC., for authority to control East Bay Connection, Inc., pursuant to Section 854 of the California Public Utilities Code.	Ratesetting	Ratesetting	NO
A05-02-009 JUN HING, LLC, for passenger stage authority under Sections 1031, et. seq. of the California Public Utilities Code, to establish door-to-door shuttle service between points in Los Angeles and Orange counties and LAX, ONT, SNA, BUR and Los Angeles Amtrak / Chinatown, on the one hand, and to transport passengers and baggage express, on an on-call county-to-county fare basis, between the counties of San Diego, Orange, Los Angeles, Santa Clara, San Francisco, Alameda, Sacramento, Fresno, and Kern, on the other hand.	Ratesetting	Ratesetting	NO
A05-02-010 SOUTHWEST GAS CORPORATION (U 905-G), a California corporation, for authority to extend rate case cycle and implement attrition year adjustments in compliance with the Settlement Agreement in A.04-09-009.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3148 (2/24/05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-02-012 CALIFORNIA-AMERICAN WATER COMPANY (U 201-W), for authorization to increase rates for water service in its Monterey District by \$9,456,100 or 32.88% in the year 2006; by \$1,894,100 or 4.95% in the year 2007; and by \$1,574,600 or 3.92% in the year 2008; and for an order authorizing sixteen (16) Special Requests with revenue requirements in the sum \$3,815,900 in the year 2006, in the sum of \$5,622,300 in the year 2007; and in the sum of \$8,720,500 in the year 2008.	Ratesetting	Ratesetting	YES
A05-02-013 CALIFORNIA-AMERICAN WATER COMPANY (U 210-W), for authorization to increase rates for water service in its Felton District by \$769,400 or 105.2% in the year 2006; by \$53,600 or 3.44% in the year 2007; and by \$16,600 or 1.03% in the year 2008; and for an order authorizing two (2) Special Requests. (TEND 1804)	Ratesetting	Ratesetting	YES
A05-02-014 PACIFIC GAS AND ELECTRIC COMPANY, for review of entries to the Energy Resource Recovery Account and compliance review of electric contract administration, economic dispatch of electric resources; and utility retained generation fuel procurement activities.	Ratesetting	Ratesetting	YES
A05-02-015 VOICECOM TELECOMMUNICATIONS, LLC, for registration as an interexchange carrier telephone corporation, pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-02-016 CALIFORNIA WATER SERVICE COMPANY, for an order authorizing in its Kern River Valley a water quality memorandum account.	Ratesetting	Ratesetting	YES
A05-02-017 IVAN VALLEJO, MUNDO EXPRESS, INC., RODRIGO L. POLANCO, for authority to control Mundo Express, Inc., pursuant to Section 854 of the Public Utilities Code.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3148 (2/24/05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-02-018 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), to issue, sell, and deliver one or more series of Debt Securities and guarantee the obligations of others in respect of the issuance of Debt Securities, the total aggregate principal amount of such indebtedness and guarantees not to exceed \$2.0 billion; to execute and deliver one or more indentures; to sell, lease, assign, mortgage or otherwise dispose of or encumber utility property; to issue, sell and deliver in one or more series, an aggregate amount not to exceed \$500 million.	Ratesetting	Ratesetting	NO
A05-02-019 SAN DIEGO GAS & ELECTRIC COMPANY, for authority to make various Electric Rate Design changes, close certain rates, and revise cost allocation among customer classes, effective January 1, 2006.	Ratesetting	Ratesetting	YES
A05-02-020 GLOBAL VALLEY NETWORKS (U 1008-C), for authority to sell an office building and related land pursuant to Public Utilities Code Sections 851 - 854.	Ratesetting	Ratesetting	NO
A05-02-021 RAZA TELECOM INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

**PRELIMINARY DETERMINATION
SCHEDULE**

Resolution ALJ 176-3148 (2/24/05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-02-022 PACIFIC GAS AND ELECTRIC COMPANY, for Rehearing of Resolution G-3372.		Ratesetting	YES